

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, FEBRUARY 13, 2023

CCS - FINANCIAL OFFICE
DEPARTMENT OF REVENUE

APPLICATION OF
NORTHERN NECK ELECTRIC COOPERATIVE

2023 FEB 13 A 9:13
CASE NO. PUR-2018-00022

For approval of a community solar tariff

ORDER FOR NOTICE AND COMMENT

On January 30, 2018, Northern Neck Electric Cooperative ("NNEC" or "Cooperative") filed an application with the State Corporation Commission ("Commission") in this docket, pursuant to Code § 56-585.1:3 C, for approval of a companion rate schedule for a community solar pilot program ("Community Solar Tariff"). Code § 56-585.1:3 C states:

Notwithstanding the provisions of subsection B of § 56-234 and §§ 56-249.6 and 56-585.1, upon application of a utility consumer services cooperative the Commission shall review a proposal submitted by the cooperative for a voluntary companion rate schedule. If the Commission finds that the proposal is reasonable and prudent, it shall approve the voluntary companion rate schedule for the cooperative to conduct a pilot program pursuant to this section....

NNEC's Community Solar Tariff was a voluntary three-year pilot program for the development of community solar projects that was available to NNEC members receiving electric service under a residential rate schedule ("Subscribers").¹ The Commission approved the Community Solar Tariff, subject to certain reporting requirements, on July 24, 2018, and dismissed the case from its docket of active proceedings.²

¹ The Community Solar Tariff is not available to members currently participating in the Cooperative's Net Metering Program.

² Final Order at 4-5.

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Under the Community Solar Tariff, Subscribers could purchase energy in 50 kilowatt-hour blocks ("Solar Blocks") generated from solar generating resources, and each Subscriber would pay a seasonal, fixed monthly rate ("Fixed Block Charge") of \$5.46 per Solar Block per month for non-summer months (October – May) and \$5.95 per Solar Block per month for summer months (June – September).³ The Fixed Block Charge represented a premium to the rate available under the Subscriber's standard tariff rate.⁴ Subscribers would be responsible for the fixed monthly charge under the Community Solar Tariff even in months in which their actual usage was less than the size of the Solar Block(s) the member purchased.⁵ Subscribers also remained subject to the terms and conditions of the applicable standard tariff, except as modified by the Community Solar Tariff, and remained subject to the other basic terms, conditions, and membership agreements of the Cooperative.⁶ As approved, Subscribers would be able to cancel their subscriptions at any time after giving at least 30 days' notice.⁷

On April 29, 2022, NNEC submitted a report on the status of the pilot program to the Commission as required by Code § 56-585.1:3 F. On January 13, 2023, NNEC filed a motion pursuant to Code § 56-585.1:3 G to reopen the record and make the Community Solar Tariff permanent ("Motion"). Code § 56-585.1:3 G states:

At any time after filing its report on the status of its pilot program as required by subsection F, a participating utility may, in its application proceeding, move the Commission to make its pilot

³ *Id.* at 1-2. The Solar Blocks are generated from two solar generating facilities located in Virginia. NNEC's wholesale power supplier, Old Dominion Electric Cooperative, has entered into long-term contracts for the output of these solar projects. *Id.* at 1.

⁴ *Id.* at 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

program permanent. The motion shall include a compliance filing with conforming changes to the participating utility's applicable rate schedules. Upon the Commission's granting of the motion, the pilot program shall become a regular rate schedule of the participating utility.

In its Motion, NNEC seeks to have the Community Solar Tariff become permanent with a revised Fixed Block Charge.⁸ Specifically, NNEC proposes to reduce the Fixed Block Charge to \$5.26 per Solar Block per month for non-summer months (October – May) and \$5.89 per Solar Block per month for summer months (June – September).⁹ The Cooperative requests that the revised Fixed Block Charge become effective for bills rendered on or after the date the Commission grants the Motion ("Effective Date").¹⁰ NNEC seeks to have the revised Fixed Block Charge remain fixed for a three-year period from its Effective Date ("Revised Fixed Rate Term"), at which time the Cooperative would again evaluate whether a prospective change in the Fixed Block Charge is appropriate.¹¹

According to NNEC, the Cooperative would continue to offer subscriptions under the Community Solar Tariff for terms of 12 consecutive months beginning with the effective date of the subscription ("Annual Subscription Period"), with the Annual Subscription Period automatically renewing unless canceled by the Subscriber or the Cooperative at least 30 days prior to the renewal date.¹² Further, NNEC states it may offer subscriptions less than 12 months consecutively to align with the end of the Revised Fixed Rate Term, provided that such

⁸ Motion at 3-4.

⁹ *Id.* at 4.

¹⁰ *Id.* at 5.

¹¹ *Id.*

¹² *Id.*

shortened subscriptions would automatically renew for an Annual Subscription Period unless canceled by the Subscriber or the Cooperative at least 30 days prior to the renewal date.¹³ However, a Subscriber may still cancel a subscription at any time by giving at least 30 days' notice to the Cooperative.¹⁴

Participation in the Community Solar Tariff will continue to be voluntary.¹⁵ Further, NNEC asserts that the Community Solar Tariff revenues continue to recover the cost of providing service under the tariff, and that no costs have been borne by non-participating customers.¹⁶

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that NNEC should provide public notice of its Motion; interested persons should have an opportunity to file comments on the Motion, file a notice of participation as a respondent, or request that a hearing be convened; the Commission's Staff ("Staff") should be directed to investigate the Motion and present its findings and recommendations in a report; and a Hearing Examiner should be assigned to rule on any discovery matters that arise during the course of this proceeding.

To promote administrative efficiency and timely service of filings upon participants, the Commission will, among other things, direct the electronic filing of pleadings and other documents, unless they contain confidential information, and require electronic service on parties to this proceeding.

¹³ *Id.* at 5-6.

¹⁴ *Id.* at 6.

¹⁵ *Id.* at 2.

¹⁶ *Id.* at 4.

Accordingly, IT IS ORDERED THAT:

(1) This docket shall be reopened for the limited purpose of considering the Cooperative's Motion.

(2) All pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").¹⁷

Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) As provided by Code § 12.1-31 and Rule 5 VAC 5-20-120, *Procedure before Hearing Examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to rule on any discovery matters that arise during the course of this proceeding.

¹⁷ 5 VAC 5-10-20 *et seq.*

(5) An electronic copy of NNEC's Motion may be obtained by submitting a written request to counsel for the Cooperative: Timothy E. Biller, Esquire, Hunton Andrews Kurth LLP, 951 East Byrd Street, Richmond, Virginia 23219, or tbiller@hunton.com. Interested persons also may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(6) On or before April 14, 2023, the Cooperative shall cause a copy of the following notice to be published in Cooperative Living Magazine:

NOTICE TO THE PUBLIC OF A MOTION
BY NORTHERN NECK ELECTRIC COOPERATIVE,
FOR APPROVAL OF A COMMUNITY SOLAR TARIFF
CASE NO. PUR-2018-00022

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- Northern Neck Electric Cooperative ("NNEC") has moved the State Corporation Commission ("Commission") to reopen the docket in Case No. PUR-2018-00022 and make permanent its voluntary companion rate schedule for a community solar program, which was approved by the Commission as a pilot program on July 24, 2018 ("Community Solar Tariff").
- The Community Solar Tariff would be available on a voluntary basis to the Cooperative's members receiving electric service under a residential rate schedule ("Subscribers").
- Under the Community Solar Tariff, Subscribers may purchase energy in 50 kilowatt-hour unit blocks ("Solar Block") generated from solar generating resources.
- NNEC seeks approval of a revised Fixed Block Charge. NNEC proposes to reduce the Fixed Block Charge from \$5.46 to \$5.26 per Solar Block per month for non-summer months (October – May) and from \$5.95 to \$5.89 per Solar Block per month for summer months (June – September).
- Further information about this case is available on the Commission website at:
scc.virginia.gov/pages/Case-Information.

On January 30, 2018, Northern Neck Electric Cooperative ("NNEC" or "Cooperative") filed an application with the State Corporation Commission ("Commission") in this docket, pursuant to Code § 56-585.1:3 C, for approval of a companion rate schedule for a community solar pilot program ("Community Solar Tariff").

NNEC's Community Solar Tariff was a voluntary three-year pilot program for the development of community solar projects that was available to NNEC members receiving electric

service under a residential rate schedule ("Subscribers"). The Commission approved the Community Solar Tariff, subject to certain reporting requirements, on July 24, 2018, and dismissed the case from its docket of active proceedings.

Under the Community Solar Tariff, Subscribers could purchase energy in 50 kilowatt-hour blocks ("Solar Blocks") generated from solar generating resources, and each Subscriber would pay a seasonal, fixed monthly rate ("Fixed Block Charge") of \$5.46 per Solar Block per month for non-summer months (October – May) and \$5.95 per Solar Block per month for summer months (June – September). The Fixed Block Charge represented a premium to the rate available under the Subscriber's standard tariff rate. Subscribers would be responsible for the fixed monthly charge under the Community Solar Tariff even in months in which their actual usage was less than the size of the Solar Block(s) the member purchased. Subscribers also remained subject to the terms and conditions of the applicable standard tariff, except as modified by the Community Solar Tariff, and remained subject to the other basic terms, conditions, and membership agreements of the Cooperative. As approved, Subscribers would be able to cancel their subscriptions at any time after giving at least 30 days' notice.

On April 29, 2022, NNEC submitted a report on the status of the pilot program to the Commission as required by Code § 56-585.1:3 F. On January 13, 2023, NNEC filed a motion pursuant to Code § 56-585.1:3 G to reopen the record and make the Community Solar Tariff permanent ("Motion").

In its Motion, NNEC seeks to have the Community Solar Tariff become permanent with a revised Fixed Block Charge. Specifically, NNEC proposes to reduce the Fixed Block Charge to \$5.26 per Solar Block per month for non-summer months (October – May) and \$5.89 per Solar Block per month for summer months (June – September). The Cooperative requests that the revised Fixed Block Charge become effective for bills rendered on or after the date the Commission grants the Motion ("Effective Date"). NNEC seeks to have the revised Fixed Block Charge remain fixed for a three-year period from its Effective Date ("Revised Fixed Rate Term"), at which time the Cooperative would again evaluate whether a prospective change in the Fixed Block Charge is appropriate.

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12 consecutive months beginning with the effective date of the subscription ("Annual Subscription Period"), with the Annual Subscription Period automatically renewing unless canceled by the Subscriber or the Cooperative at least 30 days prior to the renewal date. Further, NNEC states it may offer subscriptions less than 12 months consecutively to align with the end of the Revised Fixed Rate Term, provided that such shortened subscriptions would automatically renew for an Annual Subscription Period unless canceled by the Subscriber or the Cooperative at least 30 days prior to the renewal date. However, a Subscriber may still cancel a subscription at any time by giving at least 30 days' notice to the Cooperative.

Participation in the Community Solar Tariff will continue to be voluntary. Further, NNEC asserts that the Community Solar Tariff revenues continue to recover the cost of providing service under the tariff, and that no costs have been borne by non-participating customers.

TAKE NOTICE that the Commission may adopt rates that differ from those appearing in the Company's Motion. Interested persons are encouraged to review the Motion and supporting documents for the details of these proposals.

To promote administrative efficiency and timely service of filings upon participants, the Commission has, among other things, directed the electronic filing of pleadings and other documents, unless they contain confidential information, and require electronic service on parties to this proceeding. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. At this time, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission has directed that service on parties and the Commission's Staff in this matter shall be accomplished by electronic means. Please refer to the Commission's Order for Notice and Comment for further instructions concerning Confidential or Extraordinarily Sensitive Information.

An electronic copy of the Cooperative's Motion may be obtained by submitting a written request to counsel for the Cooperative: Timothy E. Biller, Esquire, Hunton Andrews Kurth LLP, 951 East Byrd Street, Richmond, Virginia 23219, or tbiller@hunton.com

On or before May 12, 2023, any interested person may file written comments on the Motion by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2018-00022.

On or before May 12, 2023, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Cooperative. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2018-00022.

On or before May 12, 2023, any interested person may file a written request for a hearing at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file the hearing request

electronically may file such a request by U.S. mail to the Clerk of the Commission at the address listed above. Requests for hearing must include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. The interested person simultaneously shall serve a copy of the hearing request on counsel to the Cooperative. All requests for a hearing shall refer to Case No. PUR-2018-00022.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Comment, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

The Cooperative's Motion, the public version of other documents filed in this case, the Commission's Rules of Practice, and the Commission's Order for Notice and Comment, may be viewed at: scc.virginia.gov/pages/Case-Information.

NORTHERN NECK ELECTRIC COOPERATIVE

(7) On or before May 5, 2023, the Cooperative shall file proof of the notice required by Ordering Paragraph (6) with the Clerk of the Commission by filing electronically at scc.virginia.gov/clk/efiling.

(8) On or before May 12, 2023, any interested person may file written comments on the Motion by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2018-00022.

(9) On or before May 12, 2023, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at

scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (8). Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Cooperative. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2018-00022.

(10) Within three (3) business days of receipt of a notice of participation as a respondent, the Cooperative shall serve upon each respondent a copy of the Motion and supporting materials on the respondent, unless these materials already have been provided to the respondent.

(11) On or before May 12, 2023, any interested person may file a written request for a hearing at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file the hearing request electronically may file such a request by U.S. mail to the Clerk of the Commission at the address in Ordering Paragraph (8). Requests for hearing must include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. The interested person simultaneously shall serve a copy of the hearing request on counsel to the Cooperative. All requests for a hearing shall refer to Case No. PUR-2018-00022.

(12) The Staff shall investigate the Motion. On or before May 26, 2023, the Staff shall file with the Clerk of the Commission a report containing its findings and recommendations and simultaneously shall serve a copy of the same on counsel to the Cooperative and all respondents.

(13) On or before June 9, 2023, NNEC may file with the Clerk of the Commission any comments on the Staff's report, comments from interested persons, and requests for hearing that were filed with the Commission. The Cooperative simultaneously shall serve a copy of its comments on the Staff and all respondents.

(14) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(15) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the Staff.¹⁸ Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

¹⁸ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2018-00022 in the appropriate box.

(16) This matter is continued.

Commissioner Patricia L. West participated in this matter.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.